

August 13, 1998

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON APPEAL FROM NOTICE AND ORDER**

SUBJECT: Department of Development and Environmental Services File No. **E9800533**

**STEVE MITCHELL AND  
EARLY CARE MONTESSORI**  
Code Enforcement Appeal

Location: Early Day Care Center, 10717 SE 172<sup>nd</sup> Street, Renton, Washington

Appellants:	Steve Mitchell	&	Early Care Montessori
	21729 – 116 <sup>th</sup> Avenue SE		10717 SE 172 <sup>nd</sup> Street
	Kent, WA 98031		Renton, WA 98055

**SUMMARY OF RECOMMENDATIONS & DECISION:**

Department's Preliminary:	Deny the Appeal
Department's Final:	Deny the Appeal
Examiner:	Deny the Appeal

**PRELIMINARY MATTERS:**

Notice of appeal received by Examiner:	June 17, 1998
Statement of appeal received by Examiner:	June 17, 1998

**EXAMINER PROCEEDINGS:**

Hearing Opened:	June 30, 1998
Hearing Closed:	June 30, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES ADDRESSED:**

- Fire protection
- Day care

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **Citation.** On May 28, 1998, the King County Department of Development and Environmental Services served upon Steve D. Mitchell and Early Care Montessori (together and separately, "the Appellant") a "Supplemental Notice of King County Code Violation; Civil Penalty Order; Abatement Order; Notice of Lien; Duty To Notify" (hereinafter referred to as "Notice and Order"). Citing King County Code Chapter 16.04 and Uniform Fire Code Sections 103.4.5, 1202.1, 1202.2, 1207.3, the Notice and Order indicates that Steve D. Mitchell and Early Care Montessori (together and interchangeably referred to hereinafter as "the Appellants") have created a hazardous condition for building occupants by maintaining deadbolts, keyed-lock and manual locking devices on exit doors. The Department's Notice and Order requires the Appellants to complete all of the following within three (3) days from the date of service (May 28, 1998):
  - Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort.
  - Exit doors shall not be locked, chained, bolted, barred, latched or otherwise rendered unusable.
  - All locking devices shall be of an approved type.
  - Remove all unapproved locking devices from all exit doors. . . .

2. **Appeal.** Representing himself and Early Care Montessori, Appellant Steve D. Mitchell filed timely appeal. In addition, Mr. Mitchell removed all locks deemed by the Department to violate the referenced Fire Code requirements. However, the Appellant now pursues this appeal hoping to re-establish those same or similar locks.

Appellant Mitchell argues that the buildings were issued certificates of occupancy nine (9) years ago, apparently indicating that the locks were approvable at that time. He argues further that keeping children inside the building is a greater child safety concern than possible fire. He expresses concern about the risk of losing a child from "one of our fifteen doors." The Appellant also argues that the locks at issue are the "finger type that can be easily opened from the inside by anyone." Finally, the Appellant expresses concern that "panic hardware" as recommended by the King County Fire Marshall would be too expensive. The core argument, however, appears to be one which asserts that neither circumstances nor locks have changed since occupancy; rather, the Department's interpretation of Code language has changed.

3. **Regulatory Language At Issue.** The debate between the Appellants and the Department centers in large part on whether opening a deadbolt with two fingers while at the same time turning a doorknob requires "special effort or knowledge" in the context of a children's daycare center. (The Mitchell/Montessori Early Day Care Center accommodates approximately 50 children, principally pre-school age.)
4. **Inspection And Re-inspection .** In an April, 1998 inspection and re-inspection conducted by King County Fire District #40 found several required exit doors to be equipped with deadbolt-type locking devices. At the time of inspection the exit doors were found to be in the locked position. Upon further investigation, it was determined that the doors were usually "locked." A correction letter requesting that the locks be removed and that the doors be openable without use of a key or special knowledge (citing

uniform Fire Code Section 1207.3) was sent to Appellant Mitchell. At the time of re-inspection the noted corrections had not been addressed, and it was made clear that they would not be addressed. (We know now, as this matter has come to hearing, that the offending locks were indeed removed.)

King County Fire Protection District # 40 Inspector Sandy Haydock has emphasized to the Appellant that “this constitutes a life safety issue of great concern . . .”

5. **Department Report Adopted.** The facts and analysis contained in the Land Use Services Division Preliminary Report dated July 30, 1998 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. When a hazardous condition exists, retrofitting can certainly be required. In this case, an older and wiser agency than the one which first approved occupancy, has determined that deadbolt locks which require manipulation additional to, and simultaneous with, doorknob operation constitutes a hazardous condition for pre-school youngsters. It is easy to agree. In fact, Appellant Mitchell implicitly agrees that this condition is fire-safety-hazardous when he argues that keeping the children inside the building is a higher priority than easy emergency escape.
2. Having heard all of the arguments from both sides, it seems obvious that the Appellant's bottom line concern is, indeed, the “bottom line”—that is, to avoid the cost of investing in “panic hardware” or other similar hardware which is more safe. As noted by the Department, the children will be safe from intruders simply by taking off the exterior doorknobs except where absolutely necessary.
3. Ultimately, the public interest priority on child safety, expressed through the Uniform Fire Code, compels denial of this appeal.

DECISION:

The appeal is DENIED.

ORDER:

- A. Because the property owner has removed the offending deadbolt locks, no civil penalties will accrue.
- B. Steve Mitchell and Early Care Montessori are PROHIBITED from re-installing any security hardware which requires special knowledge or skill to open. If this business seeks greater security, either during operating hours or during closed hours, the owner shall consult with King County Fire Protection District #40 and/or the King County Fire Marshall's Office for guidance as to appropriate hardware.

ORDERED this 13<sup>th</sup> day of August, 1998.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 13<sup>th</sup> day of August, 1998, to the parties and interested persons shown on the attached list.

**MINUTES OF THE JULY 30, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9800553 – EARLY DAY CARE CENTER / STEVE MITCHELL:**

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Elizabeth Deraitus, Gay Johnson, and Steve Mitchell.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Permit #C8900451 with conditions (8 pages)
- Exhibit No. 2 Letter to Early Care Montessori from Fire Protection District #40 dated March 9, 1992 (5 pages)
- Exhibit No. 3 Letter to Steve Mitchell from King County Fire Marshal dated April 27, 1998
- Exhibit No. 4 Letter to King County Fire Marshal from Steve Mitchell dated April 28, 1998
- Exhibit No. 5 Letter to King County Fire Marshal from Steve Mitchell dated April 28, 1998 (4 pages)
- Exhibit No. 6 Letter to King County Fire Marshal from Steve Mitchell dated April 29, 1998
- Exhibit No. 7 Letter to Steve Mitchell from King County Fire Marshal dated April 29, 1998
- Exhibit No. 8 Letter to Steve Mitchell from King County Fire Marshal dated April 30, 1998
- Exhibit No. 9 Copy of letter to King County Fire Marshal from Fire Inspector Sandy Haydock, Fire Protection District #40, dated April 22, 1998
- Exhibit No. 10 Copy of correction notice to Early Care Montessori from Fire Marshal dated May 19, 1998
- Exhibit No. 11 Copy of Notice and Order dated May 28, 1998
- Exhibit No. 12 Copy of Supplemental Notice and Order issued May 28, 1998
- Exhibit No. 13 Copy of Assessor's Tax Information
- Exhibit No. 14 Copy of Assessor's Real Property History
- Exhibit No. 15 Copy of Assessor's Real Property Legal Description
- Exhibit No. 16 Copy of Assessor's Real Property Characteristics
- Exhibit No. 17 Copy of SITUS file information (3 pages)
- Exhibit No. 18 Copy of Appeal filed by Steve Mitchell, received June 11, 1998 (11 pages)
- Exhibit No. 19 Copy of Request for Hearing Date, dated June 17, 1998
- Exhibit No. 20 Copy of Corrected Notice of Hearing, dated July 13, 1998
- Exhibit No. 21 Copy of Party of Record List
- Exhibit No. 22 Copy of Witness List
- Exhibit No. 23 Copy of Section 103.4.5 Uniform Fire Code (2 pages)
- Exhibit No. 24 Copy of Sections 1202.1 and 1202.2 Uniform Fire Code
- Exhibit No. 25 Copy of Section 1207.3 Uniform Fire Code
- Exhibit No. 26 Copy of Kroll Map
- Exhibit No. 27 Copy of Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the July 30, 1998 public hearing

RST:vam

Attachment

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August 14, 1998

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**ADMINISTRATIVE ERRATUM**

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The summary of the “Examiner Proceedings” on page 1 of the Examiner’s August 13, 1998 Report and Decision is erroneous. The hearing actually opened and closed on **July 30, 1998**.

- A. In all other respects the Examiner’s Report and Decision of August 13, 1998 remains valid and in full effect.
- B. A copy of this notice will be attached to the Examiner’s master file copy of the August 13, 1998 Report and Decision.
- C. This correction does not affect the substantive findings or conclusions in the Report and Decision, and therefore does not change any appeal rights or deadlines.

ORDERED this 14<sup>th</sup> day of August, 1998.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 14<sup>th</sup> day of August, 1998, to the parties and interested persons shown on the attached list.

RST:vam

Attachment

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